

REMARKS

The Office Action dated July 30, 2008, has been received and carefully considered. Reconsideration of the outstanding objections/rejections in the present application is also respectfully requested based on the following remarks.¹

I THE OBVIOUSNESS REJECTION OF CLAIMS 1-16

On page 2 of the Office Action, claims 1, 4-9 and 12-16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Quail Creek Bank Rates Page (PTO-892 reference U) in view of Official Notice (as allegedly evidenced by the above application's background of the invention ¶ 0003-0006). On page 7 of the Office Action, claims 2-3 and 10-11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Quail Creek Bank Rates Page, in view of Official Notice, and further in view of Tanaka (U.S. Patent No. 5,799,288). This rejection is hereby respectfully traversed.

As stated in MPEP § 2143, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the

¹ As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions made by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., assertions regarding dependent claims, whether a reference constitutes prior art, whether references are legally combinable for obviousness purposes) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such in the future.

reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Regarding claim 1, the Examiner alleges that Quail Creek Bank Rates Page teaches a method for determining a benefit of pooling separate cash accounts into a single pooled account. In particular, the Examiner alleges that Quail Creek Bank Rates Page teaches the claimed steps of: "determining separate minimum cash balances required in the separate cash account pages" (pages 1-2), and "determining a pooled minimum cash balance required in the single pooled account" (pages 1-2).

The Examiner concedes that Quail Creek Bank Rates Page does not disclose the steps of: "aggregating the separate minimum cash balances into an aggregated minimum cash balance," or "determining a difference between the aggregated minimum cash balance and the pooled minimum cash balance, wherein the difference is a benefit of pooling." However, the Examiner takes Official Notice that the steps of "aggregating the separate minimum cash balances into an aggregated minimum cash balance," and "determining a difference between the aggregated minimum cash balance and the pooled minimum cash balance, wherein the difference is a benefit of pooling" are old and well-known. The Examiner alleges that the Office Notice is evidenced by ¶ 0003-0006 of "Mark's background of invention (U.S. Publication No. 2002/0178098)." The Examiner goes on to assert that it would have been obvious to one of ordinary skill in the art to include these steps with the method for determining a benefit of pooling separate cash accounts into a single pooled account of Quail Creek Bank Rates Page to increase bank interest and decrease associated costs.

Applicant respectfully disagrees with the Examiner's contentions in the Office Action. First, Application submits that Quail Creek Bank Rates Page does not teach or suggest the

claimed steps of “determining separate minimum cash balances required in the separate cash account pages,” or “determining a pooled minimum cash balance required in the single pooled account.” Rather, Quail Creek Bank Rates Page merely comprises a web site screen shot that presents interest rates and annual percentage yields for different types of accounts and financial products (e.g., checking, savings, CDs, loans, etc.) based on minimum balances or term of loan. Applicant respectfully submits there is no teaching or suggestion whatsoever of any feature or functionality that even remotely comprises the steps of “determining separate minimum cash balances required in the separate cash account pages,” or “determining a pooled minimum cash balance required in the single pooled account.” In particular, there is no part of Quail Creek Bank Rates Page that can reasonably be considered to be “determining” anything, much less the separate minimum cash balances required in the separate cash account pages, or a pooled minimum cash balance required in the single pooled account. In fact, Quail Creek Bank Rates Page fails to even mention or make use of the term “pooled account,” and any other type of account that includes pooled funds.

Second, the Examiner’s Office Notice is flawed. The Examiner alleges that the steps of “aggregating the separate minimum cash balances into an aggregated minimum cash balance,” and “determining a difference between the aggregated minimum cash balance and the pooled minimum cash balance, wherein the difference is a benefit of pooling” are each old and well-known. Applicants traverse this rejection because the purported reference to the above application’s “background of the invention” fails to support the Official Notice. Those excerpts, ¶ 0003-0006, recite as follows:

[0003] Pooling is a financial method in which several different accounts of a customer are combined, "pooled" into a single account in order to obtain certain benefits. Some of these benefits include the ability to earn greater interest in the pooled account and decreased costs in maintaining the several accounts. For an

example, a large corporation with several divisions or subsidiaries might consider pooling the cash accounts of the several divisions or subsidiaries to achieve interest and cost benefits.

[0004] Corporations will frequently hold multiple bank accounts with the same bank in the same currency. Often these accounts are held by individual subsidiaries or divisions of the corporation for the sole use of that business or legal entity. At any one time one or several of these accounts could be in deficit (overdraft) and pay debit interest to the bank, whilst at the same time other accounts could be in surplus (credit) and be earning credit interest. Given that credit interest is lower than debit interest, the corporation overall will forgo the `spread` between the credit and debit interest on any offsetting long and short positions.

[0005] Historically, banks have been asked by their clients to calculate the various benefits of implementing a pooling structure for their organization. Typically, this process began by the client supplying historical data of the daily cash position for each of the individual entities it was intending to pool. For the analysis to be in any way representative, at least 3 months data, ideally more, was required. If the company was subject to seasonal variations, such as a manufacturer of ski equipment, account data representing anything less than a 12 month period would possibly be questionable. The financial data for each entity (e.g., division) within the company would need to be collected over the same period. With this historical financial data in hand, the bank would then calculate the interest earnings and costs that each of these entities would have earned or incurred acting as stand-alone entities with their stand-alone cash positions over that historic period. The bank then calculated the interest earnings and costs that would be realized if the separate accounts had been pooled over this same period of time. The calculated interests and costs of the non-pooled accounts would then be compared to the interest earnings and costs which would have been earned or incurred had the accounts of these entities been pooled together over that historic period. The (presumably) increase in bank interest and decrease in associated costs would be said to be the pooling benefit.

[0006] There are a number of drawbacks with this traditional prior art approach for measuring the benefits of pooling. The traditional analysis is conducted on historic data which will inevitably contain one-time irregularities that will distort the data. The traditional analysis measures best case versus a do-nothing strategy. In practice, in the absence of any other liquidity structure, most treasurers would at least be taking some ad-hoc measures to share liquidity across the group using, for example, intercompany term loans. This oversight in the prior art techniques tends to diminish the validity of this analysis in the eyes of any but the most naive of treasurers. Finally, the prior art analysis will only show a pooling benefit if some of the entities have a cash deficit coincident with a surplus cash position in other entities.

Applicant is perplexed how the above excerpts can be deemed to support the taking of Official Notice that the following steps are old and well-known: “aggregating the separate minimum cash balances into an aggregated minimum cash balance,” and “determining a difference between the aggregated minimum cash balance and the pooled minimum cash balance, wherein the difference is a benefit of pooling.” Rather, Applicant submits that the above excerpts merely discuss drawbacks with traditional pooling techniques, not the specific claimed steps of “determining a difference between the aggregated minimum cash balance and the pooled minimum cash balance, wherein the difference is a benefit of pooling.” Accordingly, Applicants continue to traverse this rejection because there is no support in the record for the conclusion that the identified features are “old and well known.” In accordance with MPEP § 2144.03, the Examiner must cite a reference in support of his position.

Indeed, Applicant submits that the proposed combination of Quail Creek Bank Rates Page with the Official Notice fails to teach or suggest each and every recitation of claim 1. For example, as stated above, Quail Creek Bank Rates Page merely discloses different interest rates and other particulars associated with different types of accounts, and does not teach or suggest any feature or functionality that can reasonably be considered to determine: (1) separate minimum cash balances required in the separate cash account pages, or (2) a pooled minimum cash balance required in the single pooled account, as required by independent claim 1. Accordingly, even if Quail Creek Bank Rates Page were combined with the Office Notice as proposed by the Examiner, the resulting combination would not teach or suggest each and every recitation of independent claim 1. For at least this reason, therefore, Applicant respectfully submits that independent claim 1 is allowable over the cited references.

Regarding claim 9, this claim recites subject matter related to claim 1. Thus, the arguments set forth above with respect to claim 1 are equally applicable to claim 9. Accordingly, it is respectfully submitted that claim 1 is allowable over the cited references for the same reasons as set forth above with respect to claim 1.

Regarding claims 2-8 and 10-16, these claims are dependent upon independent claim 1 or 9. Thus, since independent claims 1 and 9 should be allowable as discussed above, claims 2-8 and 10-16 should also be allowable at least by virtue of their dependency on independent claim 1 or 9. Moreover, these claims recite additional features which are not disclosed, or even suggested, by the cited references taken either alone or in combination. For example, claim 4 recites the method of claim 1, further comprising: pooling the separate cash accounts into the single pooled account if the pooled minimum cash balance is less than the aggregated minimum cash balance. Applicant respectfully submits that the proposed combination of cited references does not teach or suggest the method of claim 1, further comprising: pooling the separate cash accounts into the single pooled account if the pooled minimum cash balance is less than the aggregated minimum cash balance.

Lastly, Applicant disputes the Examiner's contention that Applicant did not previously traverse the taking of Official Notice in the rejections of claims 2-16. In particular, Applicant reminds the Examiner that footnote 2 in the previous response clearly requested that the Examiner cite a reference or references for the taking of Official Notice in connection with the rejection of claims 2-16. To be clear, Applicant does not believe there is support in the record for the conclusion that the identified features in the rejections of claims 2-16 are "old and well known." In accordance with MPEP § 2144.03, the Examiner must cite a reference in support of his position.

In view of the foregoing, it is respectfully requested that the aforementioned obviousness rejection of claims 1-16 be withdrawn.

II. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time and new claim fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

Respectfully submitted,

Hunton & Williams LLP

By:


Ozzie A. Farres

Registration No. 43,606

Hunton & Williams LLP
1900 K Street, N.W.
Washington, D.C. 20006-1109
Telephone: (202) 955-1500
Facsimile: (202) 778-2201

Date: November 19, 2008

APPENDIX A

1. (Previously Presented) A computer-implemented method for determining a benefit of pooling separate cash accounts into a single pooled account, the method comprising:
determining separate minimum cash balances required in the separate cash accounts;
aggregating the separate minimum cash balances into an aggregated minimum cash balance;
determining a pooled minimum cash balance required in the single pooled account; and
determining a difference between the aggregated minimum cash balance and the pooled minimum cash balance, wherein the difference is a benefit of pooling.

2. (Original) The method as recited in claim 1, wherein the step of determining the separate minimum cash balances comprises: multiplying a standard deviation of a cash balance in each of the separate cash accounts by 2.3.

3. (Original) The method as recited in claim 2, wherein the number of separate cash accounts is n , and wherein the standard deviation of the cash balance in any one of the separate cash accounts is $S(x)$, the step of determining the separate minimum cash balances is given by $2.3 \times \sum \{S(n)\}$.

4. (Original) The method as recited in claim 1, further comprising: pooling the separate cash accounts into the single pooled account if the pooled minimum cash balance is less than the aggregated minimum cash balance.

5. (Original) The method as recited in claim 1, further comprising:
receiving the number of separate cash accounts to be pooled; receiving daily balance data for each of the separate cash accounts;
receiving an identification of a currency of the separate cash accounts; and

receiving interest spreads for each of the separate cash accounts.

6. (Original) The method as recited in claim 5, wherein the daily balance data is a time series of consecutive daily balance data.

7. (Original) The method as recited in claim 6, wherein the daily balance data is for a representative period.

8. (Original) The method as recited in claim 7, wherein the representative period is up to three months.

9. (Original) A system for determining a benefit of pooling separate cash accounts into a single pooled account, the system comprising:

a communication network;

at least one user terminal coupled to the communication network; and

an information processor coupled to the communication network, wherein the information processor is operable to:

determine separate minimum cash balances required in the separate cash accounts, aggregate the separate minimum cash balances into an aggregated minimum cash balance, determine a pooled minimum cash balance required in the single pooled account, and determine a difference between the aggregated minimum cash balance and the pooled minimum cash balance, wherein the difference is a benefit of pooling.

10. (Original) The system as recited in claim 9, wherein the information processor is further operable to determine the separate minimum cash balances by multiplying a standard deviation of a cash balance in each of the separate cash accounts by 2.3.

11. (Original) The system as recited in claim 10, wherein the number of separate cash accounts is n , and wherein the standard deviation of the cash balance in any one of the

separate cash accounts is $S(x)$, wherein the information processor is further operable to determining the separate minimum cash balances by determining $2.3 \times \sum \{S(n)\}$.

12. (Original) The system as recited in claim 9, wherein the information processor is further operable to:

issue an instruction to pool the separate cash accounts into the single pooled account if the pooled minimum cash balance is less than the aggregated minimum cash balance.

13. (Original) The system as recited in claim 9, further comprising: an input interface, the input interface operable to:

receive the number of separate cash accounts to be pooled, receive daily balance data for each of the separate cash accounts, receive an identification of a currency of the separate cash accounts, and receive interest spreads for each of the separate cash accounts.

14. (Original) The system as recited in claim 13, wherein the daily balance data is a time series of consecutive daily balance data.

15. (Original) The system as recited in claim 14, wherein the daily balance data is for a representative period.

16. (Original) The system as recited in claim 15, wherein the representative period is up to three months.